

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to commercial driver’s license requirements and adoption of federal regulations and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 520, “Regulations Applicable to Carriers,” Chapter 529, “For-Hire Interstate Motor Carrier Authority,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.176B, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 307.27, 321.176B, 321.188, 321.449 and 321.450.

Purpose and Summary

This proposed rule making aligns Chapters 520, 529 and 607 with federal regulation changes that occurred during the 2022 federal fiscal year. This proposed rule making also amends Chapter 607 to increase the length of the validity period for a restricted commercial driver’s license (CDL) for certain agricultural purposes as allowed under newly adopted federal standards.

Restricted CDL expansion. The proposed amendments to Chapter 607 align the rules with recent changes to 49 Code of Federal Regulations (CFR) 383.3(f)(3)(ii) in accordance with existing legal authority in Iowa Code section 321.176B. Specifically, Section 23019 of the federal Infrastructure Investment and Jobs Act (IIJA) directs the Federal Motor Carrier Safety Administration (FMCSA) to amend CFR 383.3(f)(3)(ii) to provide that a restricted CDL issued to an employee in a farm-related service industry be valid for up to 210 days (previously 180 days). The FMCSA made the necessary changes to that CFR section on September 29, 2022, by publishing an immediately effective final rule (FR Vol. 87, No. 188, pages 59030-59037). These proposed amendments will benefit existing individuals who utilize the restricted CDL and will ensure that Iowa remains compliant with the applicable federal CDL regulations.

Annual update. The remaining proposed amendments are part of the regular annual update in which the Department adopts the most recent updates to the federal regulations. Iowa Code section 321.188 requires the Department to adopt rules to administer CDLs in compliance with certain portions of 49 CFR Part 383. Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The proposed amendments to Chapter 520 adopt the CFR dated October 1, 2022, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399. The proposed amendment to Chapter 529 adopts

the current CFR dated October 1, 2022, for 49 CFR Parts 365 to 368 and 370 to 379. The proposed amendment to Chapter 607 adopts the CFR dated October 1, 2022, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2022 edition of the CFR that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and HMR

Parts 383, 390, and 392 (FR Vol. 86, No. 192, pages 55718-55743, 10-7-2021)

This final rule amends the FMCSR to establish requirements for State Driver's Licensing Agencies (SDLAs) to use information obtained through the Drug and Alcohol Clearinghouse (DACH), an FMCSA-administered database containing driver-specific controlled substance (drug) and alcohol records. SDLAs must not issue, renew, upgrade, or transfer a CDL or commercial learner's permit (CLP) to any individual prohibited under FMCSA regulations from performing safety-sensitive functions, including driving a commercial motor vehicle (CMV), because of one or more drug and alcohol program violations. Further, SDLAs must remove the CLP or CDL privilege from the driver's license of an individual subject to the CMV driving prohibition, which would result in a downgrade of the license until the driver complies with return-to-duty (RTD) requirements. This final rule also requires states receiving Motor Carrier Safety Assistance Program (MCSAP) grant funds to adopt a compatible CMV driving prohibition applicable to CLP and CDL holders who violate the FMCSA's drug and alcohol program requirements, and it also makes clarifying and conforming changes to current regulations. Compliance with the final rule is required by November 18, 2024. Effective date: November 8, 2021.

Parts 365, 368, 383, 385, 390, 391, 393, 395, 396, and 398 (FR Vol. 86, No. 196, pages 57060-57077, 10-14-21)

This final rule makes technical corrections throughout the FMCSR to correct inadvertent errors and omissions, remove or update obsolete references, improve the clarity and consistency of certain regulatory provisions, and make nondiscretionary ministerial changes that align regulatory requirements with the underlying statutory authority. The FMCSA adds two new provisions for transparency relating to agency management and to the FMCSA's rules of organization, procedures, or practice, and makes corresponding changes to definitions, addresses, and employee titles throughout the FMCSR. Effective date: October 14, 2021.

Part 383 (FR Vol. 86, No. 207, pages 59871-59872, 10-29-21)

This final rule corrects two regulatory references in the FMCSR that were amended by the October 7, 2021, DACH final rule. The amendment was necessary because of a subsequent unrelated rule-making action affecting the same section of the FMCSR. Effective date: November 8, 2021.

Parts 393 and 396 (FR Vol. 86, No. 214, pages 62105-62112, 11-9-21)

This final rule amends the FMCSR to add rear impact guards to the list of items that must be examined as part of the required annual inspection for each CMV, amends the labeling requirements for rear impact guards, and excludes road construction controlled horizontal discharge trailers from the rear impact guard requirements, consistent with changes made by National Highway Traffic Safety Administration to the corresponding Federal Motor Vehicle Safety Standards. Effective date: December 9, 2021.

Part 385 (FR Vol. 86, No. 244, pages 72851-72854, 12-23-21)

This final rule amends the FMCSR to incorporate the updated Commercial Vehicle Safety Alliance handbook containing inspection procedures and Out-of-Service Criteria (OOSC) for inspections of shipments of transuranic waste and highway route-controlled quantities of radioactive material. The OOSC provide enforcement personnel nationwide, including the FMCSA's state partners, with uniform enforcement tolerances for inspections. Through this rule, the FMCSA incorporates by reference the April 1, 2021, edition of the handbook. Effective date: February 22, 2022.

Part 391 (FR Vol. 87, No. 14, pages 3390-3419, 1-21-22)

This final rule amends the FMCSR to allow individuals who do not satisfy, with the worse eye, either the existing distant visual acuity standard with corrective lenses or the field of vision standard, or both, to be physically qualified to operate a CMV in interstate commerce under specified conditions. Currently, such individuals are prohibited from driving CMVs in interstate commerce unless they obtain an exemption from the FMCSA. The new alternative vision standard replaces the current vision exemption program as the basis for determining the physical qualification of these individuals. Effective date: March 22, 2022.

Part 383 (FR Vol. 87, No. 23, pages 6045-6046, 2-3-22)

This guidance amended the FMCSA's official regulatory interpretation of 49 CFR Part 383 to allow third-party testers to administer the commercial driver's license knowledge tests for all classes and endorsements. Under the guidance, SDLAs may accept the results of knowledge tests administered by third-party testers in accordance with existing knowledge test standards and requirements set forth in 49 CFR Part 383, subparts G and H. Effective date: February 3, 2022.

Part 391 (FR Vol. 87, No. 28, page 7756, 2-10-22)

This final rule corrects a typographical error in the FMCSR that were amended by the January 21, 2022, final rule amending vision standards for interstate CMV operation in Part 391. This rule corrects a previously incorrect date for grandfathered drivers who participated in a vision waiver study program to come into compliance with the provisions in the final rule. Effective date: March 22, 2022.

Part 393 (FR Vol. 87, No. 44, pages 12596-12604, 3-7-22)

This final rule amends the FMCSR to increase the area on the interior of CMV windshields where certain vehicle safety technology devices may be mounted. In addition, the FMCSA adds items to the definition of vehicle safety technology. This final rule responds to a rule-making petition from Daimler Trucks North America. Effective date: May 6, 2022.

Parts 385, 390, and 391 (FR Vol. 87, No. 46, pages 13192-13209, 3-9-22)

This final rule amended the FMCSR to eliminate the requirement that drivers operating CMVs in interstate commerce prepare and submit a list of their convictions for traffic violations to their employers annually. This requirement is largely duplicative of a separate rule that requires each motor carrier to make an annual inquiry to obtain the motor vehicle record for each driver it employs from every state in which the driver holds or has held a CMV operator's license or permit in the past year. To ensure motor carriers are aware of traffic convictions for a driver who is licensed by a foreign authority rather than by a state, the agency amends the rule to provide that motor carriers must make an annual inquiry to each driver's licensing authority where a driver holds or has held a CMV operator's license or permit. Effective date: May 9, 2022.

Part 380 (FR Vol. 87, No. 53, pages 15344-15345, 3-18-22)

This final rule makes a technical correction to a previously published FMCSA final rule. The correction removes obsolete regulatory text from its June 30, 2021, entry-level driver training final rule. The changes are not substantive and simply ensure that a subpart eliminated by the final rule will be accurately removed and reserved in the FMCSR for future use. This correction is effective March 18, 2022, but is applicable beginning February 7, 2022.

Parts 107 and 171 (FR Vol. 87, No. 54, pages 15839-15873, 3-21-22)

This final rule updates the HMR with the statutorily prescribed 2022 adjustments to civil penalty amounts that may be imposed for violations of certain U.S. Department of Transportation regulations. In addition, this rule notes the new U.S. Department of Transportation civil penalties authority provided in the Infrastructure Investment and Jobs Act. Effective date: March 21, 2022.

Parts 371 and 375 (FR Vol. 87, No. 80, pages 24431-24454, 4-26-22)

This final rule amends the Transportation of Household Goods regulations to incorporate recommendations from the Household Goods Consumer Protection Working Group (Working Group) contained in the Recommendations to the U.S. Department of Transportation to Improve Household Goods Consumer Education, Simplify and Reduce Paperwork, and Condense FMCSA Publication ESA 03005 (Recommendations Report). The amendments reflect those aspects of the Recommendations Report which require a rule making to implement and are within the FMCSA's authority and include

minor changes to the Transportation of Household Goods regulations and the Brokers of Property regulations which are intended to increase clarity and consistency. The updates will result in an aggregate reduction in costs for household goods motor carriers and provide clarity for individual shippers. Effective date: June 27, 2022.

Parts 171, 172, 173, 178, and 180 (FR Vol. 87, No. 142, pages 44944-45001, 7-26-22)

This final rule amends the HMR to maintain alignment with international regulations and standards by adopting various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements and to allow for better alignment with Transport Canada's Transportation of Dangerous Goods Regulations. Effective date: August 25, 2022.

Part 173 (FR Vol. 87, No. 157, pages 50271-50273, 8-16-22)

This final rule corrected the July 26, 2022, final rule that amended the HMR. The amendments are technical and were needed to correct an inadvertent removal of two paragraphs in the previously published final rule. Effective date: August 25, 2022.

Part 367 (FR Vol. 87, No. 169, pages 53680-53695, 9-1-22)

This final rule amends the FMCSR concerning the annual registration fees that states collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2023 registration year and subsequent registration years. The fees for the 2023 registration year would be reduced below the fees for 2022. The reduction in annual registration fees would be between \$18 and \$17,688 per entity, depending on the applicable fee bracket that is based on the number of vehicles owned or operated by the affected entity. Effective date: September 1, 2022.

Part 367 (FR Vol. 87, No. 173, page 54902, 9-8-22)

This final rule makes a typographical, nonsubstantive correction to the final rule that was published on September 1, 2022, concerning annual registration fees for the UCR Plan and Agreement. Effective date: September 8, 2022.

Parts 383, 385, 391, 395, 396, 397 (FR Vol. 87, No. 188, pages 59030-59037, 9-29-22)

This final rule amends the FMCSR by adopting nondiscretionary changes that align with directives under federal law, including increasing the maximum validity period of an agricultural restricted CDL issued under 49 CFR 383.3 from 180 days to 210 days as required by the Infrastructure Investment and Jobs Act. The final rule also makes technical corrections to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions and makes changes relating to agency management and to the FMCSA's rules of organization, procedures, and practice. Effective date: September 29, 2022.

Fiscal Impact

The fiscal impact statement cannot be determined. The federal regulations to be adopted by this rule making were subject to fiscal impact review by either the FMCSA or the U.S. Pipeline and Hazardous Materials Safety Administration when the regulations were enacted and were determined not to be cost-prohibitive. Each FR final rule cited contains a fiscal analysis.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on February 2, 2023, via conference call at 1 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 31, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2021~~ 2022).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2021~~ 2022).

ITEM 3. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2021~~ 2022, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or at www.fmcsa.dot.gov.

ITEM 4. Amend paragraph **607.10(1)“d”** as follows:

d. The following portions of 49 CFR Part 383 (October 1, ~~2021~~ 2022):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.
- (3) Subpart G—Required Knowledge and Skills.

(4) Subpart H—Tests.

ITEM 5. Amend paragraph **607.49(6)“f”** as follows:

f. On or after January 1, ~~2017~~ 2023, a licensee may have up to three individual periods of validity for a restricted commercial driver’s license, provided the cumulative period of validity for all individual periods does not exceed ~~180~~ 210 days in any calendar year. An individual period of validity may be ~~60, 90, or 180~~ 70, 105, or 210 consecutive days, at the election of the licensee. A licensee may add ~~30~~ 35 days to an individual period of validity by applying for an extension, subject to the ~~180-day~~ 210-day cumulative maximum period of validity. A request for extension must be made no later than the date of expiration of the individual period of validity for which an extension is requested; a request for extension made after that date shall be treated as a request for a new individual period of validity. An extension shall be calculated from the date of expiration of the individual period of validity for which an extension is requested. Any period of validity authorized previously by another state’s license shall be considered a part of the ~~180-day~~ 210-day cumulative maximum period of validity.